

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GERALD F. RICHARDS,
Plaintiff

CIVIL ACTION NO. 04-CV-40054-FDS

v.

SOUTHBRIDGE POWER &
THERMAL, LLC and
WALDRON-ABINGTON, LLC
Defendants

AMENDED COMPLAINT AND JURY CLAIM

PARTIES & FACTS

1. The plaintiff, Gerald F. Richards, is an individual residing in Leeds, Maine.
2. The defendant, Southbridge Power & Thermal, LLC ("Southbridge Power"), is a foreign corporation organized under the laws of the State of Delaware, with a principal place of business at 200 North LaSalle Street, Chicago, Illinois.
3. The defendant Waldron-Abington, LLC was, at all material times, a corporation duly organized under the laws of the State of New Hampshire, with a principal place of business at 32 Depot Square, Hampton, New Hampshire.
4. On and before January 23, 2001, and at all material times, the defendant, Southbridge Power, was the energy construction and management company and general contractor for a construction project located at the Southbridge Power Plant in Southbridge, Worcester County, Massachusetts.
5. The defendant, Southbridge Power, had responsibility for general supervision of work and for safety on the construction site.
6. On or about January 23, 2001, and at all material times, the defendant Southbridge Power, by its agents, servants and/or employees, was present on the job site.
7. On and before January 23, 2001, and at all material times, the defendant Waldron-Abington, LLC ("Waldron"), had contracted with Southbridge Power to act as the general contractor for the construction project at the Southbridge Power Plant.
8. On and before January 23, 2001, and at all material times, Waldron was responsible for all construction work at the job site, including the installation of pipes at the job site.
9. On or about January 23, 2001, and at all material times, Abington Constructors, Inc. contracted with the defendant to perform millwright work at the project located at or around the Southbridge Power Plant.
10. On or about January 23, 2001, and at all material times, the plaintiff was employed by Abington Constructors, Inc. to perform millwright and welding work at the project located at or around the Southbridge Power Plant.

11. On or about January 23, 2001, and at all material times, the plaintiff was lawfully on the premises of the construction project located at or around the Southbridge Power Plant.
12. On or about January 23, 2001, while performing welding work on the construction site at the Southbridge Power Plant, and due to the negligence of the defendants by and through their agents, servants and employees in failing to properly install pipes at the job site, and/or in failing to maintain adequate safety measures at the job site, the plaintiff was caused to sustain a severe and permanent crush injury when a large pipe fell on his left arm.
13. As a direct and proximate result of his injury, the plaintiff has suffered physical and mental pain and suffering, lost earnings/lost earning capacity, has incurred medical expenses for his care and treatment, and has suffered and an impairment to his ability to enjoy life and attend to his usual activities.
14. Upon information and belief, on or about January 23, 2001, and at all material times, the defendant Southbridge Power and the defendant Waldron-Abington, LLC, knew or reasonably should have known that work was being performed in an unsafe and unreasonable manner, including but not limited to failing to ensure that millwrights, including the plaintiff, were not exposed to unsafe working conditions.

PLAINTIFF GERALD RICHARDS' CLAIMS AGAINST THE
DEFENDANT SOUTHBIDGE POWER & THERMAL, LLC

COUNT I - NEGLIGENCE

15. The plaintiff repeats and incorporates the aforementioned paragraphs as if each were set forth here in its entirety.
16. The defendant, Southbridge Power, had a duty to direct, manage, supervise, and/or oversee the work performed at the Southbridge Power Plant, including but not limited to: ensuring that workers, including the plaintiff, had a safe work environment, and free of all foreseeable hazards.
17. The defendant, Southbridge Power, breached its duty when it failed to direct, manage, supervise, and/or oversee the work performed at the Southbridge Power Plant, including but not limited to: failing to ensure that workers, including the plaintiff, had a safe work environment, and free of all foreseeable hazards.
18. As a direct and proximate result of the defendant's breach of its duties, the plaintiff was caused to suffer severe and permanent personal injuries.
19. On or about January 23, 2001, and at all material times, the plaintiff exercised due care and was free of any comparative negligence.

WHEREFORE, the plaintiff demands judgment against the defendant for the aforementioned personal injuries and damages, including but not limited to physical and mental pain and suffering, lost earnings, loss of earning capacity, and hospital and medical expenses, plus interest and costs.

COUNT II - FAILURE TO WARN

20. The plaintiff repeats and incorporates the aforementioned paragraphs as if each were set forth here in its entirety.
21. The defendant, Southbridge Power, had a duty to warn workers, including the plaintiff, of any unsafe and/or unreasonably dangerous working conditions.
22. The defendant breached its duty when it failed to warn workers, including the plaintiff, of the unsafe and/or unreasonably dangerous condition of the work area where they were performing work on the job site.
23. As a direct and proximate result of the defendant's breach of its duties as set out above in part, the plaintiff was caused to suffer and continues to be caused to suffer severe and permanent personal injuries, physical and mental pain and suffering, lost earnings/lost earning capacity and an impairment in his ability to enjoy life and attend to his usual activities.
24. On or about January 23, 2001, and at all material times, the plaintiff exercised due care and was free of any comparative negligence.

WHEREFORE, the plaintiff demands judgment against the defendant for the aforementioned personal injuries and damages, including but not limited to physical and mental pain and suffering, lost earnings, loss of earning capacity, and hospital and medical expenses, including interest and costs.

PLAINTIFF GERALD RICHARDS' CLAIMS AGAINST THE
DEFENDANT WALDRON-ABINGTON, LLC

COUNT III - NEGLIGENCE

25. The plaintiff repeats and incorporates the aforementioned paragraphs as if each were set forth here in its entirety.
26. The defendant, Waldron, had a duty to perform its work in an appropriate and safe manner, and had a duty to properly direct, manage, supervise, and/or oversee the work performed by its agents, servants, employees and/or subcontractors at the Southbridge Power Plant, and to ensure that workers, including the plaintiff, had a safe work environment, free of all foreseeable hazards.
27. The defendant, Waldron, breached its duty when it failed to perform its work in an appropriate and safe manner, and failed to direct, manage, supervise, and/or oversee the work performed by its agents, servants, employees and/or subcontractors at the Southbridge Power Plant, including but not limited to the failing to ensure that workers, including the plaintiff, had a safe work environment, and free of all foreseeable hazards.
28. As a direct and proximate result of the defendant's breach of its duties, the plaintiff was caused to suffer severe and permanent personal injuries.
29. On or about January 23, 2001, and at all material times, the plaintiff exercised due care and was free of any comparative negligence.

WHEREFORE, the plaintiff demands judgment against the defendant for the aforementioned personal injuries and damages, including but not limited to physical and mental pain and suffering, lost earnings, loss of earning capacity, and hospital and medical expenses, plus interest and costs.

COUNT IV - FAILURE TO WARN

30. The plaintiff repeats and incorporates the aforementioned paragraphs as if each were set forth here in its entirety.
31. The defendant, Waldron, had a duty to warn workers, including the plaintiff, of any unsafe and/or unreasonably dangerous working conditions.
32. The defendant breached its duty when it failed to warn workers, including the plaintiff, of the unsafe and/or unreasonably dangerous condition of the work area where they were performing work on the job site.
33. As a direct and proximate result of the defendant's breach of its duties as set out above in part, the plaintiff was caused to suffer and continues to be caused to suffer severe and permanent personal injuries, physical and mental pain and suffering, lost earnings/lost earning capacity and an impairment in his ability to enjoy life and attend to his usual activities.
34. On or about January 23, 2001, and at all material times, the plaintiff exercised due care and was free of any comparative negligence.

WHEREFORE, the plaintiff demands judgment against the defendant for the aforementioned personal injuries and damages, including but not limited to physical and mental pain and suffering, lost earnings, loss of earning capacity, and hospital and medical expenses, including interest and costs.

JURY CLAIM

The plaintiff requests a jury trial on all claims as set forth herein.

Respectfully submitted,
The plaintiff,
By his Attorneys,

KECHES & MALLIN, P.C.


CHARLOTTE E. GLINKA

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DATED: May 4, 2005
AmdCplt

CERTIFICATE OF SERVICE

I, Charlotte E. Glinka, of the law firm of Keches & Mallen, P.C., counsel for the plaintiff, hereby certify that on this 4th day of May, 2005, I served the **Plaintiff's Motion to Amend Complaint to Add Party Defendant**, by forwarding copies of same by first-class mail, postage prepaid to:

Keith L. Sachs, Esquire
BOYLE MORRISSEY & CAMPO, PC
695 Atlantic Avenue
Boston, MA 02111

Mr. Terence Waldron
Waldron-Abington, LLC
32 Depot Square
Hampton, NH 03842


CHARLOTTE E. GLINKA

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